

1 Amend 2 Cal. Code Regs. Section 18530.4 as follows:

2 **§ 18530.4 Legal Defense Funds.**

3 (a) Application and Definitions.

4 (1) This regulation applies to the bank account permitted by Government Code
5 Section 85304(a).

6 (2) For purposes of this regulation, the following definitions apply:

7 (A) "Legal Defense Funds" means money in the legal defense account.

8 (B) "Legal Defense Account" means the bank account established at a financial
9 institution located in the State of California pursuant to Government Code Section
10 85304(a).

11 (C) "Legal Defense Committee" means a committee formed pursuant to
12 subdivision (b) of this regulation.

13 (D) "Candidate" means a candidate for elective state office who raises legal
14 defense funds.

15 (E) "Officer" means an elected state officer who raises legal defense funds.

16 ~~(a)~~ (b) Establishing the Legal Defense Account and Controlled Committee.

17 ~~Notwithstanding Government Code section 85201, A candidates~~ candidate or officer who
18 raises legal defense funds pursuant to under Government Code section Section 85304
19 ~~must shall~~ deposit those the funds in and expend the funds from a ~~single~~ bank account at
20 ~~a financial institution located in the State of California which~~ is separate from any other
21 bank account held by the official, including ~~any~~ a campaign bank account. The candidate
22 ~~or officer must shall~~ establish a controlled committee for the legal defense account by
23 filing a statement of organization pursuant to Government Code section Section 84101.

1 The statement of organization shall contain a description of the specific legal dispute or
2 disputes for which the account is established, and shall be amended pursuant to
3 Government Code Section 84103, as legal disputes are either resolved or initiated. The
4 words “Legal Defense Fund” and the candidate’s or officer’s last name shall be included
5 ~~as part of~~ in the committee name.

6 (c) Required Recordkeeping and Audits. The candidate or officer, and the
7 treasurer of the legal defense committee, is subject to recordkeeping requirements
8 specified in Government Code Section 84104 and shall keep separate detailed accounts,
9 records, bills, and receipts, for each legal dispute including documentation to support the
10 basis and timing, as set forth in subdivision (g)(3), for raising legal defense funds. The
11 legal defense committee shall be subject to audits under Chapter 10 of Title 9 of the
12 Government Code. An audit under Government Code Section 90001 of a candidate or
13 officer, or any controlled committee of the candidate or officer, shall include that
14 candidate’s or officer’s legal defense committee maintained during the audit period as
15 described in Government Code Section 90002(c).

16 ~~(b)~~ (d) Reporting Requirements. Contributions A contribution to and payment by
17 the legal defense committee and payments by the committee are is subject to the
18 campaign disclosure provisions of Chapters 4 and 4.6 of Title 9 of the Government Code,
19 except as follows:

20 (1) A contribution or payment is not subject to the provisions of Government
21 Code Sections 84200 through 84204.5.

22 (2) The legal defense committee shall file ~~quarterly~~ campaign statements as
23 ~~follows;~~ and reports pursuant to Chapters 4 and 5, except Sections 85200 and 85201, of

Title 9 of the Government Code at the same times and in the same places as it otherwise would be required to do for any other controlled committee formed by the candidate or officer for election to state office.

~~(1) No later than April 30 for the period of January 1 through March 31.~~

~~———(2) No later than July 31 for the period of April 1 through June 30.~~

~~———(3) No later than October 31 for the period of July 1 through September.~~

~~———(4) No later than January 31 for the period of October 1 through December 31.~~

~~(e)~~ (e) Contributions and Expenditures Not Subject to Certain Provisions.

~~Contributions~~ A contribution to and ~~expenditures~~ an expenditure from a legal defense fund account ~~are~~ is not subject to the provisions of Government Code sections ~~Sections~~ 85200, or 85201, and 85402 or Article 4 (commencing with Section 85400) of Chapter 5 of Title 9 of the Government Code.

~~(d)~~ (f) Status as Local Candidate or Local Elected Officer. ~~An elected state officer or~~ A candidate for elective state office or officer may establish a legal defense fund account under Government Code section ~~Section~~ 85304 regardless of the individual's status as a local candidate or ~~officeholder~~ local elected officer.

~~(e)~~ (g) Limitations. ~~Funds raised pursuant to Government Code section 85304 are limited to that amount reasonably necessary to defray the attorney fees and other legal costs related to the proceeding for which the fund was created.~~ For the purposes of Government Code Section 85304(a) the following limitations apply:

(1) Legal defense funds may only be raised in an amount reasonably calculated to pay, and may only be expended for, attorney's fees and other related legal costs.

(A) "Attorney's fees and other related legal costs" includes only the following:

1 (i) Attorney's fees and other direct legal costs related to the defense of the
2 candidate or officer.

3 (ii) Administrative costs directly related to compliance with the requirements of
4 subdivisions (b) and (d) and the recordkeeping requirements of subdivision (c) of this
5 regulation.

6 (B) "Attorney's fees and other related legal costs" does not include expenses for
7 fundraising, or a payment or reimbursement for a fine, penalty, judgment or settlement,
8 or a payment to return or disgorge contributions made to any other committee controlled
9 by the candidate or officer.

10 (2) A candidate or officer may only raise funds under this regulation for defense
11 against a civil or criminal proceeding, or for defense against a government agency's
12 administrative enforcement proceeding arising directly out of the conduct of an election
13 campaign, the electoral process, or the performance of the officer's governmental
14 activities and duties. An administrative enforcement proceeding includes a discretionary
15 audit initiated under Government Code Section 90003, but not an audit initiated under
16 Government Code Section 90001 until the candidate or officer reasonably concludes that
17 a government agency has commenced an investigation based upon the audit. A candidate
18 or officer may raise funds under this regulation and Government Code Section 85304 to
19 defend against an election contest conducted pursuant to Division 15 (commencing with
20 Section 16000) of the Elections Code, but may not raise or spend legal defense funds for
21 attorney's fees and other legal costs incurred in an election recount conducted pursuant to
22 Chapter 9 (commencing with Section 15600) of Division 15 of the Elections Code.

1 (3) Legal defense funds may not be raised in connection with a proceeding until
2 the following has occurred:

3 (A) In a proceeding brought by a government agency, when the candidate or
4 officer reasonably concludes the agency has commenced an investigation or the agency
5 formally commences the proceeding, whichever is earlier.

6 (B) In a civil proceeding brought by a private person, after the person files the
7 civil action.

8 ~~(F)~~ (h) Remaining Funds. Funds remaining in the legal defense account
9 following payment of all attorney's fees and other related legal costs for which the
10 account and committee are established shall be returned or disposed of as follows:

11 (1) If the total amount of remaining legal defense funds is more than \$5,000, the
12 entire sum shall be returned to legal defense account donors on a pro rata basis.

13 (2) Remaining legal defense funds, as defined by subdivision (e) of Government
14 Code section 85304, that are not required to be returned under subdivision (h)(1) may
15 shall be disposed of for any of the purpose purposes set forth in subdivisions (b)(1)
16 through (b)(5) of Government Code section Section 89519;. Remaining legal defense
17 funds may not be transferred, except as permitted under subdivisions (b)(1) through
18 (b)(5) of Government Code Section 89519, and except that such disposition is subject to
19 the provisions of Government Code sections Sections 85301-85306 85301 through 85306
20 and 2 Cal. Code Regs. section Section 18536.

21 (i) Termination and Reopening of Committees. A legal defense account and
22 legal defense committee shall be terminated, and all attorney's fees and other related
23 costs as well as any remaining funds as described in subdivision (h) returned or disposed

1 of, within 90 days of the date the last legal dispute for which the account and committee
2 are established has been resolved. The Executive Director may for good cause, and
3 consistent with the purposes of Government Code Section 85304 and this regulation,
4 extend the termination date or permit the candidate or officer to reopen the account. The
5 application to extend the termination date or to reopen the account shall be in writing and
6 shall include copies of all supporting documents including copies of billing statements.

7 NOTE: Authority cited: Section 83112, Government Code.

8 Reference: Sections 85301-85306 and 89519, Government Code.